IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION.

INCOME TAX APPEAL (LODGING) No.694/2003.

The Commissioner of Income Tax,
Mumbai City-6, Mumbai. ..Appellant.

Vs.

M/s. Lona Industries Ltd. Respondent.

Mr A. D. Kango, for the Appellant.

S.M. Shah for the Respondent.

CORAM:DR.S. RADHAKRISHNAN
AND V.C. DAGA,JJ.
DATED:17th April, 2007.

P.C.:-

1. Heard the learned counsel for the appellant and the learned counsel for the respondent.

2. In the above appeal, the following question of law was sought to be raised.

> Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal is correct in deleting the disallowance made under Section 40-A(2)(b) of the Act on account of the under invoicing of the sales made by the assessee to it's sister concerns?

3. We have perused the order passed by the Tribunal dated 3rd September, 2002. Paragraph no.2 categorically mentions that the issue raised, is squarely covered by the order of

the Tribunal in Assessee's own case for the Assessment Year 1991-92 in ITA No.6611/Bom/1995. The learned counsel for the appellant is unable to produce any record so as to indicate that the said order was challenged before this Court.

4. As the appellant has already accepted for the earlier assessment year, we dismiss this appeal.

(V.C. DAGA,J.) **(DR.S. RADHAKRISHNAN,J.)**